Sally LaCross - Fwd: Proposed changes to MCR 6.302

**From:** Clerk Info
**To:** LaCross, Sally
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**Subject:** Fwd: Proposed changes to MCR 6.302

>>> "Stuart Fenton" <SLFENT@kalcounty.com> 8/20/2009 4:04 PM >>>
I fully agree with the proposed changes eliminating a defendant's right to withdraw from a guilty plea if the judge does not follow a mere sentence recommendation. It should be clear that a recommendation is just that, and nothing more. The judge is always the final arbiter on sentencing, and so long as the defendant knows that from the start, there is no value and great detriment to restarting the whole process if the judge does not follow the recommendation.

On the other hand, I see little value and great detriment to holding all plea negotiations on the record. It seems to me there are very few claims of coercion, and very few motions to withdraw pleas at all, let alone based on coercion. Requiring plea negotiations to be on the record would waste valuable court time and is totally unnecessary, given the questions asked about the voluntariness of the plea during the actual plea. By definition, negotiations and discussions are just that - not formal, on the record proceedings. There is a give and take, the defense must be able to talk to his client confidentially and then come back to the prosecutor - this may take several rounds. I don't see this as at all feasible to be done on the record in open court. This part of the proposal ignores reality and lacks common sense.